

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-110140
	:	TRIAL NO. 10CRB-11083
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
JASMINE M. HILL,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. See S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Jasmine Hill appeals her conviction for telecommunications harassment in violation of R.C. 2917.21(B). We conclude that her assignments of error are not well taken, so we affirm the judgment of the trial court.

Hill was charged with telecommunications harassment of Tarina Roland under R.C. 2917.21(A)(1). At trial, Roland testified that Hill had called Roland's house, had taunted her, and had told her that she wanted to see Roland dead. Roland had previously told Hill not to call her house. According to Roland, she was certain that the caller was Hill because Roland had spoken to her in the past. Roland knew Hill because Hill had gotten pregnant by Roland's husband. At the end of the state's case, the trial court amended the charge to telecommunications harassment in violation of R.C. 2917.21(B), denied Hill's Crim.R. 29 motion for an acquittal, found Hill guilty, and sentenced her accordingly. Hill now appeals.

We consider Hill's first three assignments of error together. In the first, she asserts that her conviction was not based on sufficient evidence. In the second, she

asserts that the trial court erred when it overruled her Crim.R. 29 motion for an acquittal. And in the third, she asserts that her conviction was against the manifest weight of the evidence. We conclude that the state presented sufficient evidence of each element of the offense of telecommunications harassment. See *State v. Thompkins*, 78 Ohio St.3d 380, 386, 1997-Ohio-52, 678 N.E2d 541. And having reviewed the record, we cannot say that the trial court lost its way and created such a manifest miscarriage of justice that we must reverse her conviction and order a new trial. Id. at 387. The assignments of error are overruled.

In her fourth assignment of error, Hill asserts that the trial court erred when it amended the complaint to a violation of R.C. 2917.21(B). We conclude that the trial court did not err when it amended the complaint. See Crim.R. 7(D). While the judge's sheet referred only to the (A)(1) subsection of R.C. 2917.21 (failing to identify oneself), the complaint itself described acts that constituted violations of either the (A)(1) subsection or the (B) subsection (making a telecommunication "with purpose to abuse, threaten, or harass another person"). Further, the trial court did not err in failing to grant sua sponte a continuance after the complaint was amended because the record does not demonstrate that Hill was "misled or prejudiced by the defect or variance in respect to which the amendment [was] made." Crim.R. 7(D). The fourth assignment of error is overruled.

Hill's fifth assignment of error alleges that she was denied the effective assistance of trial counsel. To prevail on this assignment of error, Hill must demonstrate that her counsel's performance was deficient and that, absent her counsel's errors, the result of the proceedings would have been different. See *State v. Bradley* (1989), 42 Ohio St.3d 136, 142, 538 N.E.2d 373; *Strickland v. Washington* (1984), 466 U.S. 668, 687, 104 S.Ct. 2052. Hill claims that her trial counsel was unprepared for trial and improperly told her that she could not testify. These assertions are not borne out by the record before us. Hill also claims that her counsel

was ineffective because he did not request a continuance after the trial court amended the complaint. Because we conclude that the record did not demonstrate that Hill was misled or prejudiced, we are unable to conclude that the result of the trial would have been different had counsel requested a continuance. We conclude that Hill has not demonstrated that her trial counsel's performance was deficient. The fifth assignment is overruled.

Hill's sixth assignment of error is that the trial court's denial of her motions to expand the record and for postconviction relief was unconstitutional. Both motions were made after Hill had filed her notice of appeal and thus are not within the scope of our review. See App.R. 3(D). The sixth assignment of error is overruled.

Therefore, we affirm the trial court's judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., SUNDERMANN and FISCHER, JJ.**

To the Clerk:

Enter upon the Journal of the Court on December 7, 2011

per order of the Court \_\_\_\_\_.  
Presiding Judge